

SUPREME COURT OF INDIA

Rameshchandra Nandlal Parikh

Vs

State of Gujarat and Anr

Special Leave Petition (Crl.) Nos. 3462-3472 of 2004 With S.L.P. (Crl.) No. 6200/2004

(Y. K. Sabharwal and B. N. Srikrishna, JJ)

13.01.2006

JUDGMENT

B. N. SRIKRISHNA J

1. By these special leave petitions, Rameshchandra Nandlal Parikh (hereinafter "the Petitioner") has impugned the common judgment of the High Court of Gujarat (dated 7-5-2004) dismissing a series of criminal miscellaneous applications, which were intended to question the correctness of certain ongoing investigations into a large economic crime.

2. The Petitioner was the Managing Director (between 1973 and 1991) and thereafter. Chairman of the Second Respondent-Madhavpura Mercantile Cooperative Bank Limited (hereinafter "the Bank") having its registered office at Shahibaug, Ahmedabad, Gujarat. The Bank was operating under the provisions of the Multi-State Cooperative Societies Act, 1984 (hereinafter "the Societies Act") and was also subject to other laws, such as the Banking Regulation Act, 1949. On 13-3-2001, the Reserve Bank of India, noticing the critical financial situation of the Bank, made a requisition to the Central Registrar under Section 48(7) of the Societies Act to appoint an Administrator to manage

the affairs of the Bank. Accordingly, an Administrator took over the management of the Bank. In the meanwhile, due to the inability of the Bank to repay its depositors, there was a public outcry, and a Public Interest Litigation (Special Civil Application No. 2617/2001), was filed before the High Court of Gujarat. It prayed inter alia, for action being taken against those responsible for the adverse financial situation of the Bank, and also for directions to the Bank to repay all the monies of the Bank's depositors, account holders, share holders etc. It was alleged in the Special Civil Application that the main branch at Shahibaug (Ahmedabad) and the Mandvi Mumbai Branch (Mumbai) were involved in a large economic scam, which involved inter alia, advancing large sums of money to persons of dubious antecedents without taking steps to verify their creditworthiness in violation of applicable banking procedures and regulations. It is pertinent to note that the Petitioner was arrayed as a party (Respondent No. 8) in the said writ petition.

3. On 21-04-2001, the Bank also filed a Criminal Complaint C.R. No. 67/2001, against the Petitioner and several others, for different offences under Sections 405, 406, 408, 409 and 120B of the Indian Penal Code, 1860 (hereinafter "IPC"), read with Section 35A of the Banking Regulation Act, 1949

4. On 2-5-2001, the High Court of Gujarat made an order in the Public Interest Litigation (Special Civil Application No. 2617/2001) directing, inter alia, that the Central Bureau of Investigation (hereinafter "the CBI"), with the cooperation of the State CID (Crime), conduct an investigation into the deeds and misdeeds of the respondents, including the Petitioner. The investigation was also to go into the question of mismanagement on the part of the Bank and the concerned officers, who were found to have been involved in the criminal acts. The Petitioner was remanded to judicial custody by the CID (Crime) on the request of the CBI.

5. On 18-5-2001, the CBI registered a First Information Report (hereinafter "FIR") vide Crime No. RC4 (E) of 2001 in which the averments made in First C.R. No. 67/2001 were reproduced and the investigation arising out of First C.R. No. 67/2001 was taken over by the CBI. On 10-8-2001, although the Petitioner was granted bail in the crime being investigated by the CBI, he continued in custody consequent to an order of detention (dated 7-5-2001) made under the Prevention of Anti Social Activities Act, 1985 (hereinafter "PASA"). This order of detention was quashed by the Gujarat High Court on his writ petition and from 7-12-2001, the Petitioner was released on bail.

6. On 19-6-2002, the Bank filed thirteen individual party-wise complaints under Sections 406, 409, 420, 467, 471 read with Section 120B IPC, in which the Petitioner was joined as an accused. On 3-7-2002, the Chief Metropolitan Magistrate directed the Deputy Inspector General of Police, CID Branch (Economic Cell) to investigate the said complaints under Section 156(3) of the Code of Criminal Procedure, 1973 (hereinafter "CrPC") and submit the necessary report in all the thirteen complaints.

7. On 21-11-2002, the Petitioner filed an application for recall of the order of the learned Chief Metropolitan Magistrate directing investigation under Section 156(3) of the CrPC. The learned Chief Metropolitan Magistrate on 18-12-2002 rejected this application. The learned Chief Metropolitan Magistrate took the view that the CBI was conducting investigation under the order of the High Court, with respect to specific offences of fraud and misappropriation pertaining to the Mumbai Branch, and since further offences committed pertaining to the Ahmedabad Branch had come to light, the Bank was justified in filing different complaints. Further, according to the learned Chief Metropolitan Magistrate, the investigation by the CID (Crime), Ahmedabad was in no way contrary to the order of the High Court {dated 2-5-2001} since the CID (Crime), Ahmedabad could coordinate its investigation with those investigations being carried on by the CBI, Mumbai.

8. On 24-12-2002, the Petitioner filed Special Criminal Application Nos. 949 and 951/2002 challenging the said order of the learned Chief Metropolitan Magistrate. On 1-1-2003, the Petitioner filed Special Criminal Application Nos. 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, and 14 of 2003 for quashing the individual complaints filed against him. On 14-2-2003, the Petitioner filed a Civil Application No. 1159/2003 in Special Civil Appeal No. 2617/2001 seeking directions to the CBI to investigate all the deeds and misdeeds of the Petitioner in respect of the Bank. This application was subsequently withdrawn by the Petitioner. On 20-2-2003/13-2-2003, the Petitioner withdrew Special Criminal Application Nos. 949 and 951/2002 and Special Criminal Application Nos. 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 of 2003 filed by him challenging the order of the learned Chief Metropolitan Magistrate dated 18-12-2002. On 3-9-2003, the Petitioner filed a petition for a writ of Mandamus and Certiorari (Special Criminal Application No. 907/2003) to quash all the subsequent complaints filed against him. This petition was also subsequently withdrawn.

9. On 23-2-2004, the Petitioner filed a series of Criminal Miscellaneous Applications to quash the investigation being carried out against him in the different complaints. By the impugned common judgment dated 7-5-2004, the High Court of Gujarat dismissed all the applications. Being aggrieved thereby, the Petitioner has moved this Court.

10. We have been taken through the record. We have also heard the learned counsel on both sides. The main plank of the Petitioner's argument is that C.R. No. 67/2001 was the FIR in respect of the offences alleged and, therefore, it was not legally permissible for any other complaints to be filed in respect of the offences alleged to have been committed in the course of the said transaction.

11. Learned counsel for the Petitioner placed heavy reliance on the observations of this Court in T.T. Antony v. State of Kerala (hereinafter "T.T. Antony"). In the written submissions filed on behalf of the Petitioner, reliance was placed on a number of judgments, most of which are not of much assistance.

12. In the light of the record and the submissions made before us, we are not satisfied that the

Petitioner's case falls within the principle enunciated in T.T. Antony (supra). In T.T. Antony (supra), there was undoubtedly a second FIR filed in respect of the same incident, and this Court held that a second FIR was not permissible in view of the provisions of Section 154 read with Section 173 of the CrPC. This Court observed, as follows:

"From the above discussion it follows that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 CrPC only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 CrPC. Thus there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 773 CrPC'i

13. In the facts of the present case, we are satisfied that the complaints, which were filed in respect of malfeasance and misfeasance within the jurisdiction of the Ahmedabad Police, were not in respect of the same cognizable offence or the same occurrence giving rise to one or more cognizable offences, nor were they alleged to have been committed in the course of the same transaction or the same occurrence as the ones alleged in First C.R. No. 67/2001.

14. There is a further distinction in that while First C.R. No. 67/2001 pertained to cases concerning one Ketan Parikh and entities associated with him in the crime, the subsequent complaints pertained to other parties. Further, the FIR being investigated pertained only to criminal acts relating to the Mandvi Branch {Mumbai}, while the subsequent complaints being investigated by the State Police pertained to criminal acts at the Shahibaug (Ahmedabad) Branch of the Bank. In our view, the distinctions drawn by the High Court are fully justified. The High Court was right in observing that the FIRs, which were under challenge before it, were regarding independent and distinct offences. Hence, the FIRs could not be prohibited on the ground that some other FIR had been filed against the Petitioner in respect of other allegations made against the Petitioner.

15. Moreover, the High Court was correctly cognizant of limitations while exercising its powers under Section 482 of the CrPC, which should not in any event, be exercised lightly. Reading the impugned judgment of the High Court as a whole, we are satisfied that there is no scope for interference by us. The High Court was justified in declining to exercise its powers under Section 482 of the CrPC and in refusing to interfere with the orders passed by the learned Chief Metropolitan Magistrate. Finally, considering the nature of the allegations involved and the facts and circumstances of the present case, we too are not inclined to exercise our extraordinary powers under Article 136 of the Constitution to interfere.

16. Special Leave Petition (Crl.) No. 6200/2004 is directed against the judgment of the Gujarat High Court dated 8-4-2004 declining to grant bail to the Petitioner. Having perused the order and the record, and in light of the submissions made before us, we are not satisfied that in the facts and circumstances of the case, the Petitioner is entitled to be released on bail. The order of the High Court appears to be justified. We find no reason to interfere.

17. In the result, Special Leave Petition (Crl.) Nos. 3462-3472/2004 is found to be without merit and are hereby dismissed. Special Leave Petition No. 6200/2004 is also dismissed.